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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,089	10/24/2003	Kelley Jones	SASL:013\HON	8449

7590

02/28/2006

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P.O. Drawer 802432  
Dallas, TX 75380

EXAMINER
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LOWE, MICHAEL S

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/693,089	Applicant(s) JONES, KELLEY	
	Examiner M. Scott Lowe	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Worthington (US 2002/0121792).

Re claim 1, Worthington teaches a tool 10 that could be used for lifting a CMP pad, comprising:

a non-pivoted jaw structure 16 having an upper jaw portion 38 (with an arcuate lower surface) and a lower jaw portion 16(36), the lower jaw portion having a sloped (relative term, also zero or 90 degree slope is still a slope) upper surface that could slidably receive a portion of the pad 28;

a first member 20,22 pivotally coupled to the jaw; and

a second member 14 pivotally coupled to the first member, the second member having a surface opposite to the sloped surface of the lower jaw portion and operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards.

Re claim 4, Worthington teaches the jaw 16 comprises a first half coupled to a second half.

Re claim 5, Worthington teaches the lower jaw portion 16(36) comprises a substantially flat lower surface.

Re claim 6, Worthington teaches the first member 20,22 comprises a cutout 30 in which a portion of the second member 14 is pivotally positioned.

Re claim 7, Worthington teaches the surface of the second member 14 comprises a textured surface 36.

Claims 1-5,7-11,14 are rejected under 35 U.S.C. 102(b) as being anticipated by Krauss (US 6,086,126).

Re claims 1,8, Krauss teaches a tool 10 that could be used for lifting a CMP pad 38, comprising:

a non-pivoted jaw structure (20) having an upper jaw portion 20a (with an arcuate lower surface) and a lower jaw portion 20b, the lower jaw portion having a sloped (relative term, also zero or 90 degree slope is still a slope) upper surface that could slidably receive a portion of the pad 28;

a first member 32 pivotally coupled to the jaw; and

a second member 26 pivotally coupled (indirectly) to the first member, the second member having a surface opposite to the sloped surface of the lower jaw portion and operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards.

Re claim 2, Krauss teaches the upper jaw portion has an arcuate lower surface.

Re claims 3,9, Krauss teaches the jaw is arcuate.

Re claims 4,10, Krauss teaches the jaw 20 comprises a first half 20a coupled to a second half 20b.

Re claims 5,11, Krauss teaches the lower jaw portion comprises a substantially flat lower surface.

Re claims 7,14, Krauss teaches the surface of the second member comprises a textured surface 26b.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,3,8-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Worthington (US 2002/0121792) in view of Krauss (US 6,086,126).

Re claims 2,3, Worthington does not teach the (upper) jaw portion having an arcuate lower surface nor the non-pivoted jaw structure being arcuate. Krauss teaches the upper jaw portion having an arcuate lower surface and the non-pivoted jaw structure being arcuate. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Worthington by Krauss to have the upper jaw portion having an arcuate lower surface and the non-pivoted jaw structure being arcuate in order to avoid sharp surfaces that may tear or damage the pad.

Re claims 8,9, Worthington teaches a tool 10 that could be used for lifting a CMP pad, comprising:

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a non-pivoted jaw structure 16 having an upper jaw portion 38 and a lower jaw portion 16(36), the lower jaw portion having a sloped (relative term, also zero or 90 degree slope is still a slope) upper surface that could slidably receive a portion of the pad;

a first member 20,22 pivotally coupled to the jaw; and

a second member 14 pivotally coupled to the first member, the second member having a surface opposite to the sloped surface of the lower jaw portion and operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards.

Worthington does not teach the (upper) jaw portion having an arcuate lower surface nor the non-pivoted jaw structure being arcuate. Krauss teaches the upper jaw portion having an arcuate lower surface and the non-pivoted jaw structure being arcuate. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Worthington by Krauss to have the upper jaw portion having an arcuate lower surface and the non-pivoted jaw structure being arcuate in order to avoid sharp surfaces that may tear or damage the pad.

Re claims 10,17, Worthington teaches the jaw 16 comprises a first half coupled to a second half.

Re claims 11,18, Worthington teaches the lower jaw portion 16(36) comprises a substantially flat lower surface.

Re claims 12,19, Worthington teaches the first member 20,22 comprises a cutout 30 in which a portion of the second member 14 is pivotally positioned.

Re claims 13,20, Worthington teaches a cap 32 coupled to the first member to laterally enclose the cutout.

Re claim 14, Worthington teaches the surface of the second member 14 comprises a textured surface 36.

Re claims 15,16, Worthington teaches a tool 10 that could be used for lifting a CMP pad 28, comprising:

a non-pivoted jaw structure 16 having an upper jaw portion 38 (with an arcuate lower surface) and a lower jaw portion 16(36), the lower jaw portion having a sloped (relative term, also zero or 90 degree slope is still a slope) upper surface that could slidably receive a portion of the pad 28;

a handle 20,22,18 pivotally coupled to the jaw; and

a member 14 pivotally coupled to the handle, the member having a textured surface 36 opposite to the sloped surface of the lower jaw portion and operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards.

Worthington does not teach the (upper) jaw portion having an arcuate lower surface nor the non-pivoted jaw structure being arcuate. Krauss teaches the upper jaw portion having an arcuate lower surface and the non-pivoted jaw structure being arcuate. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Worthington by Krauss to have the upper jaw portion having an arcuate lower surface and the non-pivoted jaw structure being arcuate in order to avoid sharp surfaces that may tear or damage the pad.

### ***Conclusion***

Applicant's arguments filed 12/12/05 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the slope being a non-zero slope) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argued that Worthington does not teach a sloped surface. Applicant argued "sloped" is defined "as a surface that rises at an angle...or the angle at which something rises" and "sloped" is not zero or 90 degree. However, even the definition applicant uses does not limit the "angle" and the "angle" can be zero or ninety degrees. Common usage of "sheer slope" for vertical faces further points to "sloped" as applying to angles of zero or 90 degrees.

Worthington does not teach away from "sloped" and teaches in paragraph 23 that the surfaces can swing away from parallel. Surfaces can have equal slopes and still be parallel. Furthermore, the claim does not even specify how or relative to what object the slope is defined. Merely the orientation of the entire tool or any part of it can create a relatively sloped surface.

Applicant argued that Krauss does not teach items 20a and 20b being sloped. However it is clear from the figures at least that the items 20a and 20b are sloped. Furthermore, as addressed above, "sloped" applies even to angles of zero or 90 degrees.

Applicant argued that Krauss does not teach torsion spring 32 being pivotally coupled. However, the spring 32 must pivot and rotate in order to work as shown in figures 3 & 4 and therefore is pivotally coupled.

Applicant argued that "element 26 does not clamp a portion of any pad against a sloped surface when torsion spring is pivoted upwards" and "element 26 does not appear to have any surface opposite a sloped surface of edge 20b." As stated before "sloped" applies even to angles of zero or 90 degrees. Furthermore, figures 3 & 4 show element 26 pivoting upwards and clamping a portion of pad 38 against sloped surface 20b, which is shown to even have a non-zero slope. And also it is noted that if even a portion of a surface is curved then the entire surface can be described as non-flat.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



msl

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